



MICHAEL A. CARDOZO  
Corporation Counsel

LAW DEPARTMENT  
100 Church St.  
New York, NY 10007

JOYCE CAMPBELL PRIVETERRE  
Special Federal Litigation Division  
(212) 788-1277  
Fax: (212) 788-9776

## MEMO ENDORSED

July 10, 2007

Via Facsimile (212) 805-6326  
The Honorable Colleen McMahon  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 640  
New York, New York 10007-1312

Re: Murrell v. City of New York et al.  
07 CV 5609 (CM)(DCF)

Your Honor:

I am the Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City. Plaintiff has filed the above-referenced complaint, wherein he alleges, *inter alia*, that on May 1, 2007, he was assaulted by New York City police officers. Defendant City respectfully requests an extension of the time to answer or otherwise respond to the complaint from its current due date of July 9, 2007 to September 10, 2007. I have endeavored to speak with plaintiff's attorney, Michael Colihan, Esq., concerning this request, to no avail<sup>1</sup>.

Defendant has several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, the City requires additional time to investigate plaintiff's allegations. It is our understanding that any records pertaining to an underlying criminal action, including police records, may have been sealed pursuant to New York Criminal Procedure Law § 160.50.

<sup>1</sup> Upon review of the docket sheet, the undersigned noted that the Hon. Debra Freeman has been designated as the assigned Magistrate. I faxed an enlargement request to her chambers yesterday, but was informed by her clerk that pending a formal order of referral my enlargement request should be directed to Your Honor.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 7/10/07

7/10/07 Extension granted  
Plaintiff MOST sign and  
return answer by 8/15/07 or  
he will be barred  
from claiming  
that he  
suffered  
any  
medical  
(physical/psychological)  
injuries.

(Cardozo)

Additionally, plaintiff alleges that he sustained both physical and emotional injuries. Therefore, this office is in the process of forwarding to plaintiff for execution a consent and authorization for the release of pertinent sealed records, as well as medical authorizations to obtain records pertaining to plaintiff's purported injuries. The enlargement of time will enable the City to properly assess the case and respond to the complaint.

Moreover, upon a review of the docket sheet, we have determined that the individually-named defendant, purportedly a member of the New York City Police Department, has not been served. Thus, the requested extension will enable plaintiff to complete service of process. Once service is effected, the City will have additional time to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent the individual defendant. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an enlargement of time has been made. Accordingly, we respectfully request that defendant City's time to answer or otherwise respond to the complaint be extended to September 10, 2007.

Thank you for your consideration in this matter.

Respectfully submitted,

  
Joyce Campbell Privette (JCP 1846)  
Assistant Corporation Counsel

cc: Via Facsimile

Michael Colihan, Esq.  
The Law Office of Michael Colihan  
44 Court Street, Room 911  
Brooklyn, New York 11201  
Tel: (718) 488-7788